

REMARKS/ARGUMENTS:

Claims 1-40 are pending. The final Office Action dated April 3, 2007 made the following rejections:

- claims 1-4, 6-7, 9-10, 12-16, 18-19, 21-22 and 25-31 are rejected under 35 USC 103(a) as obvious over Phillips (US Pat. 6,192,041) in view of Wang (US 6,230,024);
- claims 5, 8, 17 and 20 are rejected under 35 USC 103(a) as obvious over Phillips in view of Wang and Saha (US Patent Publication 2003/0212822);
- claims 11-12, and 23-24 are rejected under 35 USC 103(a) as obvious over Phillips in view of Wang and Brandenberger (US Pat. 6,570,782); and
- claims 32-40 are rejected under 35 USC 103(a) as obvious over Phillips in view of Wang and Cui (US Pat. Publ. 2004/0204069).

The cited art is summarized in relevant part below.

Phillips describes in every embodiment using a subscriber device/cell phone 30 as a relay node between a laptop computer 10 and a base station system 36. Phillips describes in detail both his purported invention and the prior art. The stated purpose of Phillips is to enable packet data transmission from a laptop 10 to the internet 22 via the cell phone 30 and base station system 36, without the user having to manually enter an AT+CRM=1 command that would otherwise switch modes of the cell phone 30. (col. 1 lines 30-37; col. 2 line 61 to col. 3 line 2). Phillips does this by using "reserved" phone numbers and a CONNECT signal stored in the cellular phone memory (col. 4 lines 40-48). When the cellular phone receives a dial string from the laptop bearing one of the reserved phone numbers, it returns a CONNECT signal to the laptop, inducing the laptop software 24 to believe that an almost instantaneous connection was made to a remote modem (col. 4 line 58 to col. 5 line 2). Phillips describes its difference over the prior art as twofold: the user need not manually enter the AT+CRM=1 command as noted above; and a CONNECT signal is sent back to the laptop when no such signal is sent by the base station system 36 for a CDMA phone sending packet data (col. 3 lines 51-61). These two issues are related problems (col. 1 lines 38-52).

The newly cited reference to Wang discloses that an ongoing voice call can be converted to a digital fax call without having to relinquish the voice-call line and re-establish another line for transmitting the digital fax. The disclosure of Wang cited against claim 1 teaches that the MS 104 generates a RING signal and sends it to a personal computer 102 in the middle of a voice call to indicate that a transition from the voice call to a digital fax is occurring, to prepare the computer to receive the digital fax. The computer 102 then issues a standard AT+CRM=0 command to the MS 104. (Wang at col. 4 lines 36-53).

Where the Wang personal computer initiates the digital fax call during an ongoing voice call between the MS 104 and the base station 114, the PC 102 sends the AT+CRM=0 command to the MS 104. Of course, the RING signal is not used in that scenario because the PC is aware that it is sending a fax; it initiated it. It is notable that the AT+CRM=0 command is sent by the PC 102 only after a select button is depressed on a keyboard of the PC 102 or an auto-answer feature has been set on a digital fax device (Wang at col. 5 line 59 to col. 6 line 8).

Each of the independent claims, claims 1, 13 and 15, are amended to recite: **wherein the IP connection between the MS and the CD is regardless of any connection between the MS and a cellular network.** Support for this subject matter may be seen at least at page 2 lines 12-14 and 18-19; and page 7 lines 4-7. No new matter is seen added by this amendment.

As detailed above, both Phillips and Wang use the local connection between the mobile device and the other device (laptop/PC) as an extension of the cellular connection between the MS and a base station; Phillips for sending packet data through the base station and Wang for sending a digital fax through the same. Neither may be modified, consistent with ordinary skill and the provisions of 35 USC 103(a), to dispense with that cellular connection, since to do so would undermine the entire purpose of each: to send either ppp packets or a digital fax over the cellular network. Each of the independent claims are therefore novel and non-obvious over the cited art.

The rejection of certain dependent claims is seen as error.

To the claim 4 element **AT+CRM command having a value of five**, the final rejection admits that Phillips does not teach this explicitly but that it would be obvious to one of ordinary skill given Phillips teachings of AT+CRM=0 and AT+CRM=1. This is clear error on two counts, the first of which also applies to claims 2-3, 14-15 and 26-17.

First, claim 1 recites in relevant part: **initiating the set up of the IP connection that terminates at the MS with a command sent from the CD to the MS over a local interface**. Thus the command must be to initiate the setup of an IP connection. Phillips is explicit that in the prior art, the AT+CRM=0 and the AT+CRM=1 command is set manually. (Phillips col. 1 lines 31 and 36-37; col. 3 lines 61-63; col. 4 lines 32-34). The Phillips improvement over the prior art dispenses with the need to manually set the AT+CRM command (Phillips, col. 1 lines 49-51) by returning a CONNECT signal from the CDMA device to the laptop based on the 'reserved' phone number matching a stored one, thus tricking the laptop into thinking the CDMA device has a nearly instantaneous connection with a remote modem. (Phillips col. 2 lines 13-15; col. 4 line 62 to col. 5 line 2). This is summarized at Phillips col. 3 line 64 to col. 4 line 2, and there is no AT+CRM command issued by the laptop. For the prior art the AT+CRM command is set manually and for the Phillips improvement the AT+CRM setting remains unchanged. To modify Phillips so that an AT+CRM command is sent from the laptop undermines its principle of operation of matching reserved phone numbers to generate at the MS a CONNECT signal that is sent to the laptop. Any AT+CRM setting in Phillips is either entered manually (Phillips' prior art), or is unchanged (Phillips' improvement). One cannot modify Phillips so that the laptop sends an AT command without undermining its principle of operation. For this reason, the rejections of claims 2-3, 14-15 and 26-27 are also seen to be in error.

Second, AT+CRM=0 and AT+CRM=1 are standard AT commands, which the present disclosure admits and explicitly enumerates at page 4 line 25 to page 5 line 6 with reference to TIA/EIA-IS707.3. It is not obvious to modify Phillips' AT+CRM to a value

of five because that is a new command first disclosed in the present application: "In the presently preferred embodiment of this invention the new, extended command AT+CRM=5 is interpreted by the MS 10 ..." (page 5 lines 8-9; see also page 4 lines 18-24 and page 5 line 29). Both Phillips and Wang disclose only those AT+CRM commands that the present application admits are previously known, and no other reference is seen to disclose AT+CRM commands. A clearer case of hindsight would be difficult to imagine.

Thus the rejection of claim 4 is in error. The above applies mutatis mutandis to claims 16 and 28, which recite similarly.

Claim 5 recites "further comprising", meaning that the **ATD #777 command** from the CD to the MS recited at claim 5 is in addition to the command recited in claim 1 that initiates the setup of the IP connection. The rejection of claim 5 conflates these into a single command. As seen at Fig. 2, the AT+CRM=5 command is separate and distinct from the ATD #777 command, and claim 5 reads that way. The rejection cites to Phillips' teaching that #777 may be used as a reserved phone number which would trigger the CONNECT signal to be sent from the telephone to the laptop. But consistent with Phillips, if a reserved phone number is used there is no AT command sent or even manually entered; the entire purpose of Phillips is to avoid manually entering the AT+CRM command to send PPP data packets via a CDMA phone, and the principle is to use reserved phone numbers to generate a dummy CONNECT command to trick the laptop. The rejection to claim 5, and to claim 17 which recites similarly, is seen to be in error.

To the claim 7 element **ATSO=1 command**, the final rejection asserts that Phillips teaches this at col. 1 lines 18-36. No such teaching is seen, there or elsewhere in either Phillips or Wang, for any ATSO command.


The undersigned is aware of four ATSO commands: ATSO=0 means don't answer; ATSO=1 can mean dial up another computer or auto answer; ATSO=2 means wait for a call; and ATSO=3 means quit. For the **auto-answer mode** of claim 6 (relevant to ATSO=1 immediately above), the rejection cites to Phillips col. 3 lines 1-10 which

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describes a handshake protocol. The undersigned understands this rejection to mean that the cellular telephone of Phillips is in an auto-answer mode to perform the handshake. But it is evident from the summary of Phillips above that it is not a command from the laptop that puts the Phillips phone into this mode, it is the result of a user-entered AT+CRM command that sets the mode. In Phillips' overview of the prior art that mode can only be changed manually, and in the Phillips improvement the need for a mode change is avoided by 'tricking' the laptop with the (dummy) CONNECT signal. Claim 6 recites that the command from the CD to the MS that initiates the setup of an IP connection *places* the MS into an auto answer mode. This is not made obvious if the MS is in an auto-answer mode already and some command executes while the MS remains in that mode, unchanged. The rejections of claims 6-7 are seen to be in error. The above applies mutatis mutandis to claims 18-19 and 29-30, which recite similarly.

The Applicants respectfully request that in view of the extensive prosecution of this application already, and of the clear distinctions of these claims over the cited art yet brought to bear, that the Examiner review the above remarks and claim amendments, withdraw the rejections of claims 1-40, and pass each of them to issue. The undersigned representative welcomes the opportunity to resolve any matters that may remain, formal or otherwise, via teleconference at the Examiner's discretion.

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